

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

IN RE FRED DALE VAN WINKLE,)
)
Debtor,)
)
TAMMY SPRAGUE, personal representative of)
the estate of **FRED DALE VAN WINKLE** and)
BRIAN VAN WINKLE)
)
Plaintiffs-Appellees,)
)
vs.)
)
JOHN WILLIAMS, ELLEN B. WILLIAMS)
and **BELLEVIEW VALLEY LAND CO.,**)
INC.)
)
Defendants-Appellants.)

Bankr. No. 13-11743
Chapter 7

NOTICE OF APPEAL & STATEMENT OF ELECTION

Martin, Dugan & Martin
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1. Identity of the Appellants

- a. Names of Appellants: **John Williams, Ellen B. Williams**, husband and wife, and **Bellevue Valley Land. Co., Inc.**
- b. Position of Appellants in this matter that is the subject of this appeal: All are Appellants from the Bankruptcy Court's ***Order Granting Motion to Reopen Case***.

2. Identify the Subject of this Appeal:

- a. Describe the judgment, order or decree appealed from:
 - i. The Bankruptcy Court has entered its ***Order Granting Motion to Reopen Case***. (See ***Exhibit "A"*** attached hereto) It also entered its ***Opinion*** in relation to its ***Order Granting Motion to Reopen Case***. (See ***Exhibit "B"*** attached hereto) The appeal is from the ***Order Granting Motion to Reopen Case***.
 - ii. The ***Order Granting Motion to Reopen Case*** was entered on March 13, 2020. The ***Opinion*** in relation to its ***Order Granting Motion to Reopen Case*** was also entered on March 13, 2020.
 - iii. This was a final decision subject to appeal.
 - 1) **11 U.S.C. §350(b)** authorizes the reopening of a closed bankruptcy case. An order granting a motion to reopen a bankruptcy case is a final order and is appealable. A final order of the bankruptcy court may be appealed by right under **28 U.S.C. § 158(a)(1)**. The Bankruptcy Court's order granting the trustee's motion to reopen

the bankruptcy case to administer an asset is a final order. [*See: In re Parker*, 264 B.R. 685, 689 (B.A.P. 10th Cir.2001), *aff'd*, 313 F.3d 1267 (10th Cir.2002) & In re Petroleum Production Management, Inc., 282 B.R. 9 (P.A.P. 10th Cir. 2002)].

3. **Identify the Other Parties to the Appeal:** [List the names of all parties to the Decision appealed from and the name, address and telephone number of the attorney]
- i. Tammy Sprague, Personal Representative of the Estate of Fred Dale Van Winkle, deceased, and Brian Van Winkle are the other parties to the appeal.
 - ii. Tammy Sprague's and Brian Van Winkle's attorney is: Joel Alan Gaffney, 6565 Americas Pkwy, Suite 200, Albuquerque, NM 87110 – Phone: (505) 563-5508; e-mail is: joel@gaffneylaw.com
 - 1) R Trey Arvizu, III is also an attorney of record. His address is P.O. Box 1479m, Las Cruces, NM 88004; Phone – (575) 527-1199; e-mail is: trey@arvizulaw.com
 - iii. Clarke C. Coll has been appointed Trustee by the Bankruptcy Court in the Order re-opening the case. His address is: 408 West College Blvd., Roswell, NM 88202; Phone is: (575) 623-2288; e-mail is: clarkecoll@gmail.com

4. **Optional Election to have Appeal Heard by District Court:**

- a. Not applicable–Appellants **do not** elect to have the appeal heard by the District Court. Appellants are not waiving their right to obtain appellate determination by the tenth Circuit Court of Appeals.

5. **Sign Below:**

Date: March 26, 2020

Martin, Dugan & Martin



By _____

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Attorney for Appellants

CERTIFICATE OF SERVICE

I, W. T. Martin, Jr., certify that on March 26th 2020, I served copies of the foregoing ***Notice of Appeal and Statement of Election*** on the following counsel of record and the Chapter 7 Trustee by way of CM/ECF and e-mail:

Joel Alan Gaffney, 6565 Americas Pkwy, Suite 200, Albuquerque, NM 87110 – Phone: (505) 563-5508; e-mail is: joel@gaffneylaw.com

R Trey Arvizu, III is also attorney of record. His address is P.O. Box 1479, Las Cruces, NM 88004; Phone – (575) 527-1199; e-mail is: trey@arvizulaw.com

Clarke C. Coll, 408 West College Blvd., Roswell, NM 88202; Phone is: (575) 623-2288; e-mail is: clarkecoll@gmail.com

Martin, Dugan & Martin



By _____
W. T. Martin, Jr.